

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>FRANK JAMES CAPOZZI, SR.,</b>	:	<b>Civil No. 3:17-cv-2169</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>WARDEN TIM BETTI, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	<b>Judge Sylvia H. Rambo</b>

**ORDER**

Before the court is a report and recommendation of the magistrate judge in which she recommends that the court grant Defendants' motion to dismiss the complaint for failure to state a claim upon which relief can be granted under Fed. R. Civ. P. 12(b)(6). Objections to the report and recommendation were due on July 12, 2019, and to date no objections have been filed.

In considering whether to adopt a report and recommendation when no objections have been filed, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the report for clear error). Following an independent review of the record, the court is satisfied

that the report and recommendation contains no clear error and will therefore adopt the recommendation. Accordingly, **IT IS HEREBY ORDERED AS FOLLOWS:**

- 1) The report and recommendation of the magistrate judge is **ADOPTED**.
- 2) The motion to dismiss is **GRANTED**.
- 3) Plaintiff is granted leave to file an amended complaint that clarifies the bases of his claims and cures the pleading deficiencies outlined in the magistrate judge's report **within 30 days** of this order.
- 4) This matter is remanded to the magistrate judge for further proceedings.

s/Sylvia H. Rambo  
SYLVIA H. RAMBO  
United States District Judge

Dated: July 25, 2019